

**FOURTH REVISED MEMORANDUM REGARDING
ALEXANDRIA CIRCUIT COURT ORDERED
COVID-19 TEMPORARY PROCEDURES**

Effective June 15, 2020, in recognition of the COVID-19 pandemic, and consistent with the Supreme Court of Virginia’s June 1, 2020, Order, *In re: Fifth Order Modifying and Extending Declaration of Judicial Emergency in Response to COVID-19 Emergency* (“Fifth Sup. Ct. Order”), extending the declaration of judicial emergency from June 8, 2020 through June 28, 2020, for all district and circuit courts of the Commonwealth, allowing the implementation of local policies, as needed, to continue to remain operational while balancing the health and safety needs of visitors to the Court and personnel, and taking into consideration Governor Ralph Northam’s *Executive Order Number Sixty-Five (2020) And Order Of Public Health Emergency Six Phase Two Easing Of Certain Temporary Restrictions Due To Novel Coronavirus (Covid-19)*, allowing the majority of the Commonwealth to move into “Phase Two”,¹ the Alexandria Circuit Court’s COVID-19 temporary procedures shall remain in effect and **be extended through September 7, 2020**, as follows:

A. Previous Court Orders Regarding Temporary Procedures

On March 16, 2020, the Court issued a *Memorandum Regarding Alexandria Circuit Court Ordered COVID-19 Temporary Procedures*. On March 30, 2020, the Court issued a *Revised Memorandum Regarding Alexandria Circuit Court Ordered COVID-19 Temporary Procedures*, and, on April 14, 2020, the Court issued a *Memorandum Regarding Alexandria Circuit Court Ordered COVID-19 Temporary Procedures For Infant & Wrongful Death Settlements And for Deciding Non-Evidentiary Motions Without Oral Argument*. On April 27, the Court issued a *Third Revised Memorandum Regarding Alexandria Circuit Court Ordered Covid-19 Temporary Procedures*. These previous Orders are hereby incorporated into this *Fourth Revised Memorandum Regarding Alexandria Circuit Court Ordered COVID-19 Temporary Procedures*, subject to the specific provisions of the temporary procedures set forth below.

To the extent that the content of this *Fourth Revised Memorandum Regarding Alexandria Circuit Court Ordered Covid-19 Temporary Procedures* (“Fourth Revised Memorandum”) is different than the preceding memorandums, this Fourth Revised Memorandum shall control.

B. General

Pursuant to the Fifth Sup. Ct. Order, “courts shall continue to prioritize emergency matters” and shall “continue to conduct as much business as possible by means other than in-person proceedings.” (Fifth Sup. Ct. Order, p. 5). Use of video conferencing, teleconferencing and means other virtual means for conducting court business are the “preferred over in-person court

¹ This Executive Order Number 65 excluded the City of Richmond and the Northern Virginia Region and required these two areas of the Commonwealth to remain in Phase One under *Third Amended Executive Order 61 and Third Amended Order of Public Health Emergency Three (2020)*. As of June 12, 2020, Executive Order Number 65 applies to both the City of Richmond and the Northern Virginia Region.

proceedings.” *Id.* The Fifth Sup. Ct. Order states further that “all courts may hear in-person non-emergency matters and non-jury cases if they determine it is safe to do so, and provided they comply with the guidance for transitioning from emergency to routine operations provided by the Office of Executive Secretary in order to minimize the risk of the spread of COVID-19 from in-person court proceedings.”

C. Civil and Criminal Jury Trials

All civil and criminal jury trials **are suspended** and shall be continued (*see* Fifth Sup. Ct. Order at paragraph 12, p. 5).

D. Civil Cases

1. Hearings and Bench Trials – For all hearings and trials scheduled through September 7, 2020, counsel and pro se parties should contact Judges’ Chambers as soon as feasible to advise whether the hearing or trial may be done remotely and, if not, whether the hearing or trial may be continued. For any such hearing or trial that may not be done remotely or be continued, the Court will, on a case-by-case basis, determine whether the hearing or trial may proceed in-person in a manner that is consistent with the CDC.gov and Virginia Department of Health recommendations for minimizing the risk of the spread of COVID-19, as well as the guidance set forth in the Virginia Supreme Court’s *Pandemic Continuity of Operations Planning: Reconstitution, Guide to Transitioning from Emergency to Routine Operations*. This includes, but is not limited to, asking anyone seeking entry into the Courthouse a series of questions and taking their temperature prior to entry which based on the answers or temperature would result in the person not being permitted to enter, as well as the wearing of facial coverings, maintaining at least 6-feet between persons, frequent handwashing, use of hand sanitizing liquid, etc.

For any in-person hearings or bench trials, the following shall apply:

- a. All persons who are present in the courtroom shall wear facial coverings, unless excused from doing so by the judge, and shall practice social distancing in accordance with CDC.gov and Virginia Department of Health recommendations.
- b. If an interpreter is required, the interpreter will appear either remotely or in the courtroom with a telephone accessible to the party or witness in need of translation services. The decision whether to appear remotely, or in the courtroom, will be up to the interpreter.

- c. Court reporters may attend proceedings either remotely or in person and whether to appear remotely, or in the courtroom, will be up to the court reporter.

2. Motions Day Dockets² –

- a. Motions Day dockets shall resume on the second and fourth Wednesdays of the month, beginning June 24, 2020.
- b. All hearings will be remote via Microsoft Teams which shall be set up by Judges' Chambers.
- c. For any hearing requiring the presentation of documentary evidence, counsel or pro se parties shall submit proposed exhibits (e.g., labeled P's 1 or D's 1), no later than 12:00 p.m. on the Friday before Motions Day.
- d. Argument time limit is 25 minutes total (10 minutes per side + 5 minutes rebuttal).
- e. Garnishments
 - 1) Judgment creditors shall file a notice/praecipe giving notice to the pro se judgment debtor/defendant indicating that the matter will be heard remotely. Such notice/praecipe shall indicate that judgment creditor has a valid email address for the judgment debtor/defendant and that the debtor/defendant can access Microsoft Teams.
 - If the debtor/defendant has verifiable email - Please attach an email from the debtor/defendant to the creditor to (a) acknowledge receipt of email; (b) verify the debtor/defendant can access Microsoft Teams either via audio or video; and (c) provide the Court with the debtor/defendant's email address.
 - If the debtor/defendant does not have a confirmable email and there is no way to ensure that the debtor/defendant can access Microsoft Teams, then the garnishment hearing cannot be done remotely.

² Instructions for filing motions/oppositions and for setting motions on Motions Day, as well as instructions for video conferencing are attached to this Fourth Memorandum and incorporated herein.

- A separate garnishment docket for in-person hearings where the debtor/defendant has no verifiable email address or cannot access Microsoft Team shall be set up for another date. Counsel for the judgment creditor in these types of cases should still plan to appear remotely on motions day and their matter shall be continued to the in-person garnishment docket and counsel shall serve debtor/creditor with the new notice.
- f. Set date matters – At the Motions Day hearing, the Court will instruct counsel and/or parties to contact Judges’ Chambers to schedule the trial date. Counsel and/or parties may avoid appearing remotely on Motions Day by contacting Judges’ Chambers to schedule the trial date.
- g. Show cause orders returnable to Motions Day
 - 1) If the defendant does not appear remotely at the Motions Day hearing, the case shall be rescheduled unless the plaintiff can demonstrate that the defendant knew of the remote hearing and had access to Microsoft Teams.
 - 2) If the defendant, or the defendant with counsel, appears remotely, the case may proceed unless it will take more than 25 minutes. If not, counsel/parties shall be instructed to contact Judges’ Chambers to set a date certain.
- 3. Non-Evidentiary Motions with Waiver of Oral Argument –As per the *Third Revised Memorandum Regarding Alexandria Circuit Court Ordered COVID-19 Temporary Procedures*, motions and proposed orders from the moving party, the responses/oppositions and proposed orders from the non-moving party and the Waiver of Oral Argument signed by both parties, in addition to being filed with the Clerk of Court, may be emailed to Judges’ Chambers at: **CircuitCourtChambers@alexandriava.gov**
- 4. Civil Status Conference/Selection of Trial Date Dockets –In-person civil status conference/selection of trial date dockets are suspended until further notice. For cases set on upcoming dockets, including the July 13, 2020 and August 10, 2020 civil status conference/term day/selection of trial date dockets, counsel or pro se parties should contact Judges’ Chambers via telephone conference call at 703-746-4123, with all counsel and/or parties on the conference call, or email at **CircuitCourtChambers@alexandriava.gov**

5. Civil Appeals – For all civil appeals noted from the GDC and JDR Court between March 16, 2020 and September 7, 2020, the Clerks of the GDC and JDR Court shall assign a return date of October 13, 2020 at 9:00 a.m. to the appeal and instruct the parties to contact Judges’ Chambers by telephone conference call to select a trial date, with all counsel and/or parties on the conference call, or by email at CircuitCourtChambers@alexandriava.gov.

6. Uncontested Guardianships/Conservatorships and Infant & Wrongful Death Settlements - Orders of appointment and settlement orders may be entered on the papers. All documents, including proposed final order and GAL report, must be filed with the Clerk of the Circuit Court and counsel for Petitioner shall notify Judges’ Chambers at 703-746-4123 after all the documents have been filed.

Any orders providing for funds to be deposited with the General Receiver shall comply with Va. Code § 8.01-600(B) and “shall include information necessary to make prudent investment and disbursement decisions”. The orders shall include, except when it is unreasonable, the proposed dates of periodic and final disbursements. Prior to the entry of the order, the beneficiary or his representative shall file an affidavit with the court providing the beneficiary's name, date of birth, address, and social security number. The affidavit shall be maintained under seal by the clerk unless otherwise ordered by the court, and the information therein shall be used solely for the purposes of financial management and reporting.”

7. Divorce Cases by Affidavit – Parties may use a sworn Declaration Under Penalty of Perjury (*see* Va. Code § 8.01-4.3) to satisfy the requirements of a sworn statement under Va. Code § 20-99.1:1 (acceptance and waiver of service of process) and Va. Code § 20-106 (divorce by affidavit).

8. Ore Tenus Uncontested Divorce Hearings – In-person Ore Tenus uncontested divorce hearings will be heard on most Tuesday mornings at 9:00 a.m. and will be limited to six (6) cases. Counsel/parties should contact Judges’ Chambers to schedule the case. All documents, including the proposed Final Decree, must be filed with the Clerk of Court *one week before calling Judges’ Chambers* to schedule the hearing date. Hearing dates will be scheduled at least two weeks prior to the hearing date.

E. Criminal Cases

9. General - Any in-person hearing or bench trial will be conducted in manner that that is consistent with the CDC.gov and Virginia Department of Health recommendations for minimizing the risk of the spread of COVID-19, as well as the guidance set forth in the Virginia Supreme Court’s *Pandemic Continuity of Operations Planning: Reconstitution*,

Guide to Transitioning from Emergency to Routine Operations. This includes, but is not limited to, asking anyone seeking entry into the Courthouse a series of questions and taking their temperature prior to entry which based on the answers or temperature would result in the person not being permitted to enter, as well as wearing of facial coverings, maintaining at least 6-feet between persons, frequent handwashing, use of hand sanitizing liquid, etc.

10. The Alexandria Treatment Court (“ATC”) will continue with remote hearings every Thursday at 2:00 p.m., via Zoom video conferencing.
11. Criminal Bench Trials - For all criminal bench trials scheduled through September 7, 2020, counsel and pro se parties should contact Judges’ Chambers as soon as feasible to advise whether the trial may be done remotely and, if not, whether the trial may be continued. For any such trial that may not be done remotely or be continued, the Court will, on a case-by-case basis, determine whether the trial may proceed in-person.

In cases where the defendant is in custody, if defense counsel requests that the defendant be physically present in the courtroom, and the court finds good cause to grant such request, the Court will work with the Sheriff’s Office to transport the defendant to and from the jail and the Courthouse in a manner that protects the health and safety of the defendant, the Sheriff’s deputies and any other necessary personnel, taking into consideration, *inter alia*, that only a limited number of incarcerated defendants may be transported on any given day, that the Circuit Court, GDC and JDR Court need to accommodate the Sheriff’s limited ability to transport multiple incarcerated defendants to the Courthouse on any given day, that there is limited space within the Courthouse for incarcerated defendants to be maintained, and that there is the need to isolate the defendant for a period of days upon his/her return to the jail.

In cases where counsel believes that the speedy trial rights of an incarcerated defendant are implicated, it shall be incumbent on counsel to bring the issue to the attention of the Commonwealth and the Court in advance of the existing trial date to allow the Court to make an appropriate decision.

12. Criminal Proceedings On Commonwealth Day or a Date Certain
 - a. All proceedings will take place in Courtroom #4, on a Thursday, Commonwealth Day Docket, unless the Court determines otherwise, to be arranged by the Commonwealth’s Attorney’s office in coordination with Judges’ Chambers in the same manner as they did prior to the Covid-19 temporary procedures.

- b. For pleas, felony sentencings and probation violations, and contested non-evidentiary criminal motions, the following procedures shall apply:
 - 1) **In cases where the defendant is incarcerated** at the Alexandria Adult Detention Center and, *if all parties and witnesses agree to do so*, the attorney for the Commonwealth, defense counsel and the court reporter shall appear in person in Courtroom #4, and the defendant shall appear via the Polycom audio/video conferencing system. If defense counsel requests that the defendant be physically present in the courtroom, the same procedures as set forth in Section E (11) above apply.
 - 2) **In cases where the defendant is not incarcerated**, the preference is to conduct all such proceedings remotely, through Microsoft Teams, but only if all parties and witnesses agree to do so.
 - c. If an interpreter is required, the interpreter will appear either remotely or in the courtroom with a telephone accessible to the defendant. The decision whether to appear remotely, or in the courtroom, will be up to the interpreter.
 - d. Witnesses may attend proceedings remotely if all parties agree, or in person in the courtroom.
 - e. Victim services and victims may attend proceedings remotely if all parties agree, or in-person in the courtroom.
 - f. Court reporters may attend proceedings either remotely or in person, and whether to appear remotely or in the courtroom will be up to the court reporter.
 - g. For sentencings and revocation hearings, the probation officer may attend proceedings either remotely or in person in the courtroom, and whether to appear remotely or in the courtroom will be up to the probation officer.
13. Safety Guidelines for In-Person Proceedings - All persons who are present in the courtroom will wear facial coverings, unless excused from doing so by the judge, and practice social distancing in accordance with CDC.gov and Virginia Department of Health recommendations.
14. Copies of Plea Forms - For matters that will be heard remotely, at least 24 hours before a felony or misdemeanor plea is scheduled to take place,

counsel must provide Judges' Chambers with an executed copy of the plea form (signed by the Commonwealth, defense counsel and the defendant), and any exhibits.

15. Sentencings with Probation Sentence Reports and/or Witnesses - With respect to felony sentencings which require a Probation Sentence Report ("PSI"), the Court will only conduct such felony sentencings in which the PSI has been completed or will be completed in time for defense counsel to review the PSI with the defendant. For sentencings to be held remotely, counsel for the Commonwealth and the Defendant should notify Judges' Chambers if any witnesses will be testifying at sentencing and provide an email address for the witness, which shall be placed under seal, so that the witness can be invited to attend the sentencing proceeding on Microsoft Teams. There will be only remote witness testimony by agreement of the parties and the witness. Also, any documents/exhibits necessary for the sentencing are to be submitted at least 24 hours prior to the sentencing hearing.
16. Courtesy Copies - All pleadings and other submissions, such as sentencing memoranda and supporting documents, must be filed as usual, with a courtesy copy sent by email to Judges' Chambers at CircuitCourtChambers@alexandriava.gov. No memoranda, certificates, or exhibits will be accepted in Court on the day of a remote hearing.
17. Bond Motions and Bond Appeals - Bond motions and bond appeals shall continue to be held via video conferencing and scheduled through Judges' Chambers, unless there is good cause to hold the hearing in-person.
18. Set-Date and Monthly Reviews – To the extent possible, these matters, including reviews of restitution, UGB, local probation, and § 18.2-251 and § 18.2-57.3 dispositions, may be set on a Commonwealth Day docket, either remotely if all parties agree or in-person. For any such matter in which the parties have an agreed disposition that does require the defendant's appearance, it may be handled by agreed order in advance of court (e.g., dismissal of charge pursuant to Va. Code § 18.2-251 with proof of defendant's compliance with conditions). A single agreed order may be used for multiple cases all set on the same day (*i.e.*, Commonwealth Day set-dates can be reduced to one order in which each case is identified by case number and a copy of the order is scanned into each case file).
19. Criminal Appeals - All criminal appeals noted from the GDC and JDR Court after June 12, 2020 shall be scheduled by the Clerks of the GDC and JDR Court for a jury-election/set-date in Circuit Court on a Thursday, Commonwealth Day at 10:00 a.m., in the same manner as they did prior to the COVID-19 temporary procedures.

20. Non-Evidentiary Motions with Waiver of Oral Argument –Motions and proposed orders from the moving party, the responses and proposed orders from the non-moving party and the Waiver of Oral Argument signed by both parties, in addition to being filed with the Clerk of Court, may be emailed to Judges' Chambers at CircuitCourtChambers@alexandriava.gov.
21. The Commonwealth's Attorney's Office and the Public Defender's Office should continue to contact Judges' Chambers by email in the same manner as they did prior to the Covid-19 temporary procedures.

ATTACHMENT 1 TO FOURTH MEMORANDUM

Alexandria Circuit Court Motions Day Instructions

Revised 6/12/20

For 6/24/2020 and 7/8/2020 Motions Days

Mailbox Information:

Clerk of Court (original filings)
Judges' Chambers (Courtesy copies)

Case.Intake@alexandriava.gov
CircuitCourtChambers@alexandriava.gov

1. Notice/praecipe for motions day - Any notices/praecipes (including the motion if not previously filed) that are not filed with the Clerk of Circuit Court by the deadline will not be considered for the docket. A courtesy copy of the motion and notice/praecipe scheduling the case should also be emailed to Judges' Chambers (see mailbox information above).
2. File proposed orders – All proposed orders shall be filed with the Clerk of Circuit Court; courtesy copy emailed to Judges' Chambers.
3. Oppositions to Timely Filed Motions – Written oppositions to timely filed motions must be filed no later than one week after the deadline for filing the motion. Oppositions that are not filed with the Clerk of Circuit Court by the deadline will not be considered by the judge. A courtesy copy of the opposition should also be emailed to Judges' Chambers
4. Request interpreter services – If language services are needed, you may email your request to Doralisa Pilarte at dpilarte@vacourts.gov. If you have questions, please call 703-746-4630. The request must include the following:
 - Case Number:
 - Style (Case Name):
 - Type of Case:
 - Date and Time slot assigned: [email this information after it is received]
 - Language needed/for whom:
 - Requester of Services
 - Name:
 - Email:
 - Telephone:

5. Participants' email addresses - Counsel for the moving party (or pro se party) shall file a praecipe (courtesy copy emailed to Judges' Chambers) to include email addresses for the following parties. This information is needed for the Microsoft Teams meeting invitation.
 - Moving party (counsel or pro se party)
 - Opposing counsel or pro se party
 - Participants either side deems necessary for the hearing
6. Notice/Praecipe re Remote Hearing – Moving party (counsel or pro se litigants shall file a new notice/praecipe indicating (a) the matter will be heard remotely and (b) Judges' Chambers will email a Microsoft Teams meeting information, including estimated start time, to moving party two days prior to motions day. Moving party shall forward the meeting information to the opposing counsel/party.
7. Evidence - All evidence (including documents and supplemental exhibits/affidavits) anticipated to be relied on during the remote hearing shall be filed with the Clerk of Circuit Court, with a courtesy copy emailed to Judges' Chambers, and sent to opposing counsel/party. Evidence submitted after the deadline will not be considered.
8. Removing motions – Moving counsel or pro se party shall notify Judges' Chambers no later than 2 days prior to the motions day if the motion is to be removed from the docket.
9. Meeting invitation– Judges' Chambers shall email the moving party (counsel or pro se party) a Microsoft Teams meeting invitation:
 - a. Moving party shall forward the email invitation to opposing counsel/party
 - b. Law clerks will assign cases to either morning session (10:00 a.m. to 1:00 p.m.) or afternoon session (2:00 p.m. to 5:00 p.m.)

ATTACHMENT 2 TO FOURTH MEMORANDUM

Alexandria Circuit Court Motions Day Videoconference Instructions

Revised 6/12/20

For 6/24/2020 and 7/8/2020 Motions Days

1. **IMPORTANT – Download Microsoft Teams (a free download) prior to the meeting.**
2. You are receiving this email because you have placed a motion on the upcoming June 24, 2020 Motions Day.
3. Please do not respond to this email other than by accepting or declining the meeting invitation. If you have any questions, please email CircuitCourtChambers@alexandriava.gov
4. Please note that if this is not the correct email, you must submit a Praecipe with the correct email address by June 17, 2020 at 3 p.m. - for 6/24/2020 M.D.
July 1, 2020 at 3 p.m. – for 7/8/2020 M.D.
5. Please review the following instructions with regards to the upcoming Motions Day
6. All hearings will be remotely through Microsoft Teams.
7. Please keep your microphone muted until your case is called.
8. When you hear your case called by the law clerk, you will need to alert the law clerk that you are present by one of the following methods
If you are on a computer - Use the raise hand feature
If you are on a telephone or the raise hand feature if not available – speak up and announce your presence
9. Please note
When your case is called, please speak as loudly as possible.

If you interrupt the court during any case other than your own, you will be muted and possibly removed from the court proceeding.

If the Court does not receive opposing party's correct contact information by the deadline (see #4 above), the matter will be removed from the motions day docket, and you will be required to re-notice the hearing for a new motions day.

If your motion extends beyond the designated 25-minute time limit per case, you will be asked to reschedule your motion for a date certain.